

State of Hawaii  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of Aquatic Resources  
Honolulu, Hawaii 96813

November 17, 2006

Board of Land  
and Natural Resources  
Honolulu, Hawaii

REQUEST FOR APPROVAL TO HOLD PUBLIC MEETINGS AND HEARINGS TO  
REPEAL HAWAII ADMINISTRATIVE RULES CHAPTER 13-92, OPIHI, AND AMEND  
HAWAII ADMINISTRATIVE RULES CHAPTER 13-95, RULES REGULATING THE  
TAKING AND SELLING OF CERTAIN MARINE RESOURCES, TO INCLUDE AMENDED  
RULES FOR THE TAKE OF OPIHI AND FOR THE TAKE OF SPINY LOBSTER, KONA  
AND SAMOAN CRABS

Submitted for your consideration and approval is a request to hold public meetings and hearings to repeal and amend Hawaii Administrative Rules (HAR) to 1) transfer the provisions of Chapter 13-92 Opihi to Chapter 13-95, 2) amend the regulations when moved to chapter 13-95 to better manage the opihi, and 3) amend Chapter 13-95 to make the rules consistent with Act 77, SLH 2006, which prohibited the taking of female Kona crab, Samoan crab, and spiny lobsters.

RECOMMENDATION:

"That the Board approve the holding of public meetings and hearings to repeal HAR Chapter 13-92, Opihi, and amend HAR Chapter 13-95, Rules Regulating the Taking and Selling of Certain Marine Resources."

Respectfully submitted,



DAN POLHEMUS  
Administrator

APPROVED FOR SUBMITTAL:



PETER T. YOUNG  
Chairperson

Attachment: Ramseyer Amendments

ITEM F-2

RAMSEYER AMENDMENTS  
(DATE)

Repeal of Chapter 13-92 and  
Amendments to Chapter 13-95,  
Hawaii Administrative Rules

1. Chapter 13-92 is repealed.

2. Section 13-95-1, Hawaii Administrative Rules, is amended by adding two new definitions to read as follows:

"Opihi" means any mollusk, commonly called limpets, belonging to the genus *Cellana*, or any recognized synonym. Individual species within the genus include *Cellana talcosa*, also known as *ko'ele*, *Cellana sandwicensis*, also known as *alinalina*, *Cellana exarata*, also known as *maka-ia-uli*, and *Cellana melanostoma*.

"Samoan crab" means any crustacean known as *Scylla serrata* or any recognized synonym."

3. Section 13-95-51, Hawaii Administrative Rules, is amended by amending subsection (d) to read as follows:

"§13-95-51 Kona crab. \*\*\*

(d) It is unlawful for any person to take, possess, kill, or sell any female Kona crab [while with eggs. Any Kona crab with eggs caught must immediately be returned to the waters from which the crab was taken. The possession of any Kona crab, showing indications of the eggs having been scraped or removed therefrom, shall be prima facie evidence of the violation of this section.]" [Eff 12/03/98; am 12/19/02; am ] (Auth: HRS §187A-5) (Imp: HRS §§187A-5, 188-58.5)

4. Section 13-95-52, Hawaii Administrative Rules, is amended by amending subsection (a) to read as follows:

"§13-95-52 Samoan crab. (a) It is unlawful for any person to [catch or] take [from any bay, harbor, or other waters of the State], [or to expose] sell or offer for sale, [or to hold in possession with the intent of exposing or offering for sale,] possess, or [to] kill, any female samoan crab [while with eggs. Any samoan crab with eggs caught must immediately be returned to the waters from which the samoan crab was taken. The possession of any samoan crab, showing indications of the eggs having been scraped or removed therefrom, shall be prima facie evidence of the violation of this section]."  
[Eff 12/3/98; am  
] (Auth: HRS §187A-5) (Imp: HRS  
§§187A-5, 188-58.5)

5. Section 13-95-53, Hawaii Administrative Rules, is amended by amending subsection (c) to read as follows:

"§13-95-53 Spiny lobster. \*\*\*  
(c) It is unlawful for any person to [catch or] take [from any bay, harbor, or other waters of the State,] sell or [to expose or] offer for sale, [or to hold in possession with the intent of exposing or offering for sale, or to] possess, or kill, any female spiny lobster [while with eggs. Any spiny lobster with eggs caught must immediately be returned to the waters from which the spiny lobster was taken. The possession of any spiny lobster, showing indications of the eggs having been scraped or removed therefrom, shall be prima facie evidence of the violation of this section]."  
[Eff 12/3/98; am  
] (Auth: HRS §187A 5) (Imp: HRS §§187A-5, 188-58.5)

6. Chapter 13-95, Hawaii Administrative Rules, is amended by adding a new section 13-95-90 to read as follows:

"§13-95-90 Opihi. (a) It is unlawful for any person to:

- (1) Take, possess, sell, or offer for sale any opihi whose shell, with meat attached, is less than one and one-fourth inches (3.2 centimeters) in diameter, except for opihi ko'ele;
- (2) Take, possess, sell, or offer for sale any opihi ko'ele whose shell, with meat attached, is less than one and three-fourth inches (4.5 centimeters) in diameter;
- (3) Take, possess, sell, or offer for sale any opihi meat without shell attached, which is less than one-half inch (1.3 centimeters) in diameter; or
- (4) Sell, or offer for sale any item, such as a curio or jewelry, made from an opihi shell less than one and three-fourth inches (4.5 centimeters) in diameter.

(b) It is unlawful for any person to possess more than one quart of opihi per person per day.

(d) It is unlawful for any person to possess near or at the shoreline, or to sell or offer for sale, any opihi without the shell attached.

(e) For the purposes of this section, the meat diameter shall be measured with the meat in its natural circular shape and the foot measured from edge to edge in this position at its narrowest width. The shell diameter shall be measured at its narrowest width."

[Eff 5/26/81; am and comp 9/16/89; am

(Auth: HRS §187A-5) (Imp: HRS §187A-5)

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7. Material, except source notes, to be repealed is bracketed. New material is underscored.

8. Additions to update source notes to reflect these amendments are not underscored.

9. The repeal of chapter 13-92, and amendments to chapter 13-95, Hawaii Administrative Rules, shall take effect ten days after filing

with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on \_\_\_\_\_, and filed with the Office of the Lieutenant Governor.

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PETER T. YOUNG, Chairperson  
Board of Land and  
Natural Resources

APPROVED FOR PUBLIC HEARING:

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Deputy Attorney General